

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD D. CASITY,

Plaintiff,

v.

AMADOR COUNTY, et al.,

Defendants.

No. 24-cv-02449-DC-CSK (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
THIS ACTION WITHOUT LEAVE TO
AMEND

(Doc. No. 5)

Plaintiff Richard D. Casity is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 12, 2025, the assigned magistrate judge issued findings and recommendations recommending that this action be dismissed without leave to amend. (Doc. No. 5 at 4.) Specifically, the magistrate judge found that Plaintiff cannot proceed with his claims regarding his criminal sentencing against named Defendant Amador County Superior Court Judge Renee Day because “[a] state judge is absolutely immune from civil liability for damages performed in their judicial capacity.” (*Id.* at 3.) Similarly, the magistrate judge found that Plaintiff also cannot proceed with his claims against Defendant Sherri Lynn Adams because a prosecutor is “entitled to absolute quasi-judicial immunity from liability for damages under 42 U.S.C. § 1983

1 when the alleged wrongful acts were committed by a prosecutor in the performance of an integral
2 part of the criminal judicial process.” (*Id.*) The magistrate judge found that Plaintiff cannot cure
3 these pleading defects and recommended Plaintiff’s complaint be dismissed without leave to
4 amend. (*Id.* at 4.)

5 Those findings and recommendations were served on the parties and contained notice that
6 any objections thereto were to be filed within fourteen (14) days after service. (Doc. No. 5 at 4.)
7 To date, no objections to the findings and recommendations have been filed, and the time in
8 which to do so has now passed.

9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
10 *de novo* review of the case. Having carefully reviewed the entire file, the court finds the findings
11 and recommendations to be supported by the record and by proper analysis.

12 Though the magistrate judge did not address it in her order, Plaintiff also brings this action
13 against Amador County. (Doc. No. 1 at 1.) However, Plaintiff makes no allegations against
14 Defendant Amador County in the body of the complaint. Though a municipality may be held
15 liable under § 1983 if a municipal “policy or custom” caused the constitutional injury, Plaintiff
16 does not allege any such custom or policy existed or caused his alleged injury. *See Robles v. City*
17 *of Berkeley*, 820 F. App’x 529, 533 (9th Cir. 2020).¹ However, Plaintiff’s complaint will be
18 dismissed with leave to amend as to any claims against Defendant Amador County because a *pro*
19 *se* litigant must be given leave to amend his or her complaint “unless it is absolutely clear that the
20 deficiencies of the complaint could not be cured by amendment.” *Akhtar v. Mesa*, 698 F.3d 1202,
21 1212 (9th Cir. 2012) (citation omitted).

22 Accordingly,

23 1. The findings and recommendations issued on February 12, 2025 (Doc. No. 5) are
24 ADOPTED in part, as follows:

25 a. Plaintiff’s claims against Defendant Renee Day are dismissed without
26 leave to amend;

27 ¹ Citation to the unpublished Ninth Circuit opinions such as those cited here and elsewhere in this
28 order is appropriate pursuant to Ninth Circuit Rule 36-3(b).

- b. Defendant Renee Day is dismissed from this action;
 - c. Plaintiff's claims against Defendant Sherri Lynn Adams are dismissed without leave to amend;
 - d. Defendant Sherri Lynn Adams is dismissed from this action; and
 - e. Plaintiff is granted leave to file an amended complaint as to his claims against Defendant County Amador within thirty (30) days from the date of service of this order;
2. Any failure on Plaintiff's part to file an amended complaint within the time provided will likely result in dismissal of this action due to his failure to comply with a court order;
 3. This matter is referred back to the assigned magistrate judge for further proceedings consistent with this order;
 4. The Clerk of the Court is directed to update the docket to reflect that Defendant Renee Day is terminated from this case;
 5. The Clerk of the Court is directed to update the docket to reflect that Defendant Sherri Lynn Adams is terminated from this case; and
 6. The Clerk of the Court is directed to update the docket to reflect that B. Wheeler is not a named defendant in this case.

IT IS SO ORDERED.

Dated: April 11, 2025


Dena Coggins
United States District Judge